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Combines Investigation Act.

Investigation into the Proprietary Articles Trade Association

Interim Report of Registrar

1923.

Department of Labour, Canada

HON. PETER HEENAN — — MINISTER OF LABOUR

COMBINES INVESTIGATION ACT, 1923

INVESTIGATION INTO THE

PROPRIETARY ARTICLES TRADE ASSOCIATION

AN ALLEGED COMBINE OF WHOLESALE AND RETAIL DRUGGISTS AND MANUFACTURERS, ESTABLISHED TO FIX AND MAINTAIN RESALE PRICES OF PROPRIETARY MEDICINES AND TOILET ARTICLES

INTERIM

Report of Registrar

OTTAWA; F. A. ACLAND, Printer to the King's Most Excellent Majesty, 1926

OTTAWA, September 25, 1926.

The Hon. PETER HEENAN,
Minister of Labour,
Ottawa.

SIR,—I bring to your attention herewith a report on the Proprietary Articles Trade Association, which was submitted to your predecessor, the Honourable George B. Jones, on September 6 last, but concerning which no action was taken by the late Government owing to the general elections held on September 14.

I have the honour to be, sir,
Your obedient servant,
F. A. McGREGOR,
Registrar, Combines Investigation Act.

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OTTAWA, September 6, 1926.

The Hon. GEORGE B. JONES,
Minister of Labour,
Ottawa.

SIR,—The following report is based upon the results of inquiries which have been made into the operations of the Proprietary Articles Trade Association, an alleged combine having for its object the fixing and maintenance in Canada of minimum prices of certain proprietary and patent medicines and toilet and other articles.

Following the receipt of the application for investigation, on June 16, 1926, it was proposed to appoint a commissioner under the Combines Investigation Act to conduct the inquiry. No appointment was made, however, prior to the change of Government on June 29. On August 13, the present Government, considering that immediate purposes would be adequately served without the appointment of a commissioner, requested the Registrar to submit a report based on the inquiries made prior to the receipt of the application as well as since. During these inquiries, and in the preparation of this report, the undersigned has had associated with him Dr. W. A. Mackintosh, Professor of Economics at Queen's University.

Two applications for investigation were received, one on June 16, the other on August 11, 1926, each duly signed by six persons, British subjects, resident in Canada, of the full age of twenty-one years, as required by the Act. Both applications were accompanied by petitions containing altogether between four and five thousand signatures, protesting against higher prices of drugs and requesting a public investigation into the operations of the Proprietary Articles Trade Association. Other less formal inquiries and complaints have been made which would have led to formal applications had it not been made known publicly that an investigation had been applied for.

I. PROPRIETARY ARTICLES TRADE ASSOCIATION

The Proprietary Articles Trade Association is an organization which represents in its membership all three branches of the drug business—manufacturers and wholesale and retail druggists. According to the latest records available, the Association is composed of:—

(1) One hundred and fifty-seven manufacturers, including Canadian-owned concerns as well as branches or agencies of non-Canadian manufacturers;

(2) Twenty-eight wholesale druggists (counting the thirteen branches of the National Drug and Chemical Company of Canada as separate units);

(3) Two thousand seven hundred and thirty-two retail druggists, representing every province in the Dominion, and between 80 per cent and 90 per cent of the retail drug trade in Canada.

The organization of the Association was begun early in 1925, when Sir William Glyn-Jones (the founder and, until recently, the Secretary of the Proprietary Articles Trade Association of Great Britain, which was organized in 1896) made a tour of Canada at the request of certain Canadian wholesale and retail druggists, to explain the methods used by the British Association, and to encourage the formation of a similar organization in Canada. At the conclusion of Sir William's tour, on May 26, 1925, a joint meeting of manufacturers, wholesalers and retailers was held in Montreal, and a Provisional Committee

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was appointed to " organize an association for the prevention of price-cutting in Canada of proprietary articles". Sir William Glyn-Jones was made Chairman of the Provisional Committee and was authorized to select its other members. The Committee's first duties were to secure advice as to the legality of the enterprise, to secure the enrolment of manufacturers, wholesalers and retailers as members, and to draft a constitution and rules and regulations on the lines of the British Association. The following were chosen by Sir William to complete the Committee:—

Mr. Frank A. Blair, President of the American Proprietary Association;

Mr. Leo G. Ryan, President of the Proprietary Articles Trade Association of Canada (an organization which subsequently relinquished its title in favour of the new association);

Dr. R. B. J. Stanbury, Secretary of the Canadian Pharmaceutical Association;

Mr. Charles W. Tinling, President of the National Drug and Chemical Company of Canada, Limited.

On March 15, 1926, the organization of the Proprietary Articles Trade Association was completed, and the following officers were elected:—

President—Leo G. Ryan (Wingate Chemical Company, Montreal).

Chairman of Council—Sir William S. Glyn-Jones.

Treasurer—Arthur Lyman (Lyman's, Limited, Montreal).

Vice-Presidents—

Manufacturers' Section:

W. J. Fraser (Northrop, Lyman and Company, Limited, Toronto).

Wholesalers' Section:

C. W. Tinling (National Drug and Chemical Company of Canada, Limited, Montreal).

Retailers' Section:

G. A. Lapointe, Montreal.

Executive Committee—

The above officers and the following:—

Manufacturers' Section:

F. A. Blair (The Centaur Company).
W. G. M. Shepherd (Colgate and Company, Limited, Montreal).
W. M. Grant (Parke Davis Company, Walkerville).

Wholesalers' Section:

W. A. Hargreaves (Drug Trading Company, Limited, Toronto).
J. A. M. Charbonneau (Casgrain and Charbonneau, Limited, Montreal).
W. G. Noble (Lyman Brothers and Company, Limited, Toronto).

Retailers' Section:

C. G. Whebby, Toronto.
E. Vadboncœur, Montreal.
E. A. Rea, Woodstock.

The objects of the Association were declared to be:—

(*a*) The discussion of matters of common interest to the branches of the trades represented, with a view to decision, and, if necessary, co-operation.

(*b*) The taking of such steps as the Association may be advised are legal and not detrimental to the interests of the public, whether consumers, producers or others, to deal with unreasonable and unfair cutting of prices, and to give advice and render assistance to its members in preventing substitution.

(*c*) The doing of such other things as are lawful and as may appear to be of benefit to the trade and not detrimental to the public interests.

Membership is declared to be open to " manufacturers and wholesalers and retail vendors who give evidence of their being in sympathy with the objects of the Association." Each manufacturer is required to pay an annual fee of $100 for the first article which he places on the Association's list and $3 for each additional article; each wholesaler, $200 annually for each wholesale establishment operated; while retailers are assessed $5 annually for each store.

The management and control of the affairs of the Association are placed in the hands of a Council consisting of the following:—

(*a*) All members of the Manufacturers' Section;

(*b*) All members of the Wholesale Section;

(*c*) Twelve retail representatives, three from Ontario, two from Quebec, and one from each of the other provinces. These twelve may elect three additional members.

Any resolution to be passed must obtain a majority vote of each of the three sections.

It is provided that the Council may delegate its authority to an Executive Committee of fifteen members, composed of the following:—

President,
Chairman of the Council,
Treasurer,
Three Vice-Presidents,
Three members of each section of the Council.

The Agreements

On entering the Association, members give certain undertakings set forth in the application forms as follows:—

Manufacturer

I agree not to sell any of the articles manufactured by me enjoying the protection of the Association at prices other than those definitely quoted on the Association list or accepted by the Council of the Association.

I agree not to supply any article on the Association's list to any person, firm or corporation named by the Council of the said Association as either (1) selling any proprietary article enjoying the protection of the Association below the stated minimum fair and reasonable prices or allowing a bonus or dividend on the sales, thereby reducing the prices charged below the said stated fair and reasonable price, or (2) supplying to any one who sells at less than such stated fair and reasonable prices.

Wholesaler

I agree not to sell any article on the list of the Association below the minimum fair and reasonable prices (ex warehouse) to be fixed by the manufacturer with the approval of the Association which prices are not detrimental to the public, whether producers, consumers or others. I agree that the giving of any discount, rebate, bonus or concession in cash or kind off the above prices, either at the time of sale or subsequently, shall be treated as an infringement of the rules of the Association.

I agree to withhold supplies of all goods so protected from any person, firm or society named by the Secretary of the said Association as selling any of them below the stated prices, or allowing bonus or dividend on sales, thereby reducing the prices charged below the said stated fair and reasonable prices, or in any other way attempting to injure the sales of any of them.

Retailer

I agree not to sell any article on the list of the Association below the minimum prices to be set by the manufacturer with the approval of the Association.

Manufacturer	*Wholesaler*	*Retailer*
	I understand that any breach of this agreement will involve the withholding from me all supplies of all articles protected through the agency of the said Association.	
	I agree that when asked for an article on the list of the Association I will not make any attempt to sell any other article in its place.	I agree that when asked for an article on the list of the Association I will not make any attempt to sell any other article in its place.

These are the undertakings or agreements which it is alleged constitute a violation of the Combines Investigation Act.

Further information as to the methods proposed to be adopted by members of the Association is furnished by the minutes of Executive meetings held on June 12 and 14, 1926. These may be summarized as follows:—

In the case of new articles, the advertised price and the minimum price should be the same and a margin of 33⅓ per cent on selling price should be provided for the retailer and 16⅔ per cent for the jobber (when the retailer buys in small quantities).

Where established articles have been seriously cut, the minimum price may be below the advertised price and the margin divided equitably between the retailer and jobber.

Manufacturers' terms may not be identical in detail but the above are recommended.

Quantity discounts are to be allowed by the jobber:

1 dozen	less 2%
3 dozen	less 4%
6 dozen	less 5%
12 dozen or more	less 6%

No mention is made of direct sales by the manufacturer to the retailer nor of the attitude of the Proprietary Articles Trade Association to such sales.

Certain points should here be noted:—

1. It is the object of this Association to establish standard margins (33⅓ per cent for retailers, 16⅔ per cent for jobbers) on all drug proprietaries. These may not be established immediately as there are difficulties in the way, but ultimately they are the aim of the Association.

2. Wholesalers and manufacturers are bound to withhold supplies of all listed articles from any dealer infringing these margins. This is agreed to by manufacturers, wholesalers and retailers.

3. A reduction in the price of *any* article on the Association's list will result in the withholding of *all* articles on the list.

4. Quantity discounts are to be given but no such saving may be passed on to the public.

5. It is the necessary object of the Association to be all-inclusive so that no manufacturer, wholesaler or retailer may exist outside of it.

6. Neither wholesaler nor retailer is permitted to push the sale of competing goods if the consumer asks for a listed article. By implication they are bound to hinder the sale of non-listed proprietary articles.

7. Any co-operative distribution of profits among customers by either a wholesale or retail firm or association is prevented by the agreements of the Association.

8. This applies also to any buying group or other new method of merchandising.

9. There is nothing to indicate that manufacturers cannot sell direct to the retail trade, but no saving so effected may be passed on to the public.

10. There is no provision for a reduction of price for the purpose of reducing stock or clearing out slow-moving goods.

II. CHANGING METHODS OF DISTRIBUTION IN THE DRUG TRADE

Under the Combines Investigation Act, an agreement or combination does not come within the definition of a " combine " unless it has operated or is likely to operate to the detriment of or against the interest of the public. Subject to this qualification, the expression " combine " includes *inter alia*[1]:—

Any actual or tacit contract, agreement, arrangement, or combination which has or is designed to have the effect of:

(1) limiting facilities for . . . supplying, storing or dealing; or
(2) preventing, limiting or lessening manufacture or production; or
(3) fixing a common price or a resale price . . .; or
(4) enhancing the price . . . or cost of article . . .; or
(5) preventing or lessening competition in, or substantially controlling within any particular area or district or generally . . . manufacture, purchase, barter, sale . . . or supply; or
(6) otherwise restraining or injuring trade or commerce.

In considering the bearing of this definition upon the above agreements, inquiry has been made into present-day conditions in the drug trade, with respect particularly to changing methods, agencies and costs of selling, and also with reference to variations in selling prices and the " cutting of prices " against which the efforts of the Proprietary Articles Trade Association are chiefly directed.

Costs of selling goods in every line of business have increased in recent years out of all proportion to production costs, until many a manufacturer has come to realize that it costs more to sell his goods than to produce them. If this be true, it means that more than half of the consumer's dollar is being used in persuading the consumer to buy, and in making the article accessible in convenient and attractive form. In his " Modern Economic Tendencies " (1921) Sidney A. Reeve observes that in 1850 the effort employed in selling and distributing goods represented about twenty cents of the consumer's dollar, the productive effort represented the eighty cents; whereas nowadays the consumer pays more like fifty cents for the article itself and fifty cents for the expense of selling and distributing it.

It is recognized, of course, that the lowering of production costs which modern mass-production methods have made possible could not have been effected without increasing distribution costs. The present day tendency toward mass-merchandising is one movement which may lead to the needed adjustment and a better proportionment of distribution and production costs. In the meantime, " the cost of distribution in this country and throughout the world is still shamefully high" ; the quotation is from the evidence of Mr. E. A. Filene, a noted Boston merchant, before a committee of the United States House of Representatives on Regulation of Prices.[2] Discussing the same tendency in a volume, " The Way Out," Mr. Filene says:—

The plain fact is that one of the great wastes of business is the incredibly inefficient methods of distribution. To-day an article usually *doubles in value* between production costs and what the consumer pays. This does not mean that the distributor is a heartless profiteer. Taken by and large the retailer's profit is not great. The indefensibly high prices of to-day are the result of inefficient production and inefficient distribution. The difference between what prices are to-day and what they might be is not so much pocketed as it is wasted.[3]

The reasons for these conditions are many, not all of them are obvious, and the solution or solutions are far from being simple or easy of application. Moreover, changes in methods of doing business—the advent of the chain store, the increase in the business of department stores and mail order houses, the departmentalizing of the drug stores, changes in the functions of the wholesale trade,

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[1] The text of Section 2 of the Combines Investigation Act, defining a " combine " is contained in Appendix A to this report.
[2] Hearing on Regulation of Prices, H. R. 13568. 1916, Vol. 11, p. 211.
[3] Quoted in Stuart Chases' "The Tragedy of Waste" (1925), p. 214.

the national advertising of the manufacturer, and all the other agencies and methods characteristic of the modern merchandising—have complicated the problem for the time being, even though from other angles some of them may be regarded as experiments designed to lower, or capable of lowering, distribution costs.

Manufacturers' Distribution Costs

The situation in the drug trade is typical, though many points of difference from other lines of business have to be recognized. The burden of the selling of goods, formerly borne all but exclusively by the wholesaler and retailer, is now being assumed in large part by the manufacturer. The national advertising campaign of the manufacturers of patent medicines or toilet articles appealing direct to the consumer through newspapers, magazines, street car cards, posters, leaflets, samples, window displays, etc., etc., is an expense which has to be passed on to the consumer. A further appeal has to be made to the wholesale and retail trade, through the trade papers, and by an army of travelling salesmen, each one representing the product of one manufacturer or possibly a small group of them.

It is to be remembered, too, that the modern " high-pressure salesmanship " of the manufacturing concern is an art, and an expensive one from the consumer's standpoint. The art of selling is no longer a passive function, merely rendering goods available to the dealer or the consumer, but it is an intensely active and aggressive one, bent on " overcoming sales resistance," creating wants where none exists, fairly compelling purchases. This tendency is even further exaggerated with every trade depression when buyers become still more difficult of persuasion and sellers are under the necessity of becoming correspondingly more active.

Another cost, chargeable in large part to manufacturers' advertising account, is represented by the containers, and, since package goods form so large a proportion of the drug business, this cost is a heavy one. Stuart Chase, in his recent "Tragedy of Waste," estimates that " containers account for one-half the manufacturing cost of what are properly called package goods. In cosmetics and remedies the rates will run higher."

Another addition to distribution costs for which the manufacturers are chiefly responsible is represented by the excessive number of brands put on the market, each manufacturer competing for a share of the national income. A good drug store will have to carry anywhere from thirty to sixty kinds of soap, as many brands of talcum and face powder, twenty or thirty kinds of tooth paste, and correspondingly large stocks of other commodities. Whatever advantages this may provide to the customer, it means no advantage in the way of price reduction. It certainly means a handicap to the ordinary dealer, who is limited thereby to small-quantity purchases in most lines.

Changing Functions of the Wholesale House

This suggests one of the chief functions of the wholesale house, which is to carry many lines and supply retail dealers with goods in small quantities. Even the smallest drug stores carry more than 3,500 articles in stock, while the average carries from 8,000 to 13,000. A surprisingly large proportion of the retailer's purchases from the wholesaler is made in quarter dozen lots or less,[1]

[1] The committee on proprietary goods of the National Wholesale Druggists' Association of New York investigated this problem in 1925, and found as follows:—

City—	$1.00	articles	80	per cent	bought in quarter dozens or less.
	.75	"	80	"	"	"
	.50	"	60	"	"	"
	.25	"	50	"	"	"
	.10	"	15	"	"	"
Country—	$1.00	articles	60	per cent	bought in quarter dozens or less.
	.75	"	55	"	"	"
	.50	"	40	"	"	"
	.25	"	25	"	"	"
	.10	"	5	"	"	"

a circumstance which suggests something of the importance of the wholesaler to the small druggist. Merchandising by the manufacturer direct to the retailer is out of the question when the retailer purchases in quarter dozens.

In addition to this warehouse expense, the wholesaler has his sales force and other selling expenses, as well as the cost and risks involved in a credit service to his customers.

In certain other respects, however, the functions of the wholesaler are undergoing radical changes. Many manufacturers are now selling direct to the larger unit retailers, to groups of small retailers, to co-operative societies, and, of course, to department and chain stores, and are quoting them prices as low as those quoted the wholesale houses.[1] The retailers are now doing more of their own warehousing and also of their own selecting and buying. Thus, in many instances the functions of the wholesaler and his sales force are being assumed in part by the manufacturer, in part by the retailers. The cost of these services is not eliminated, but it is substantially reduced. The wholesale trade continues to give complete service to most of the small stores, but only partial service to the others; it continues as the exclusive channel for the marketing of some manufacturers' goods, but only as one of many channels for others. With the demand for his services thus curtailed, the wholesaler, if he is not to assume the loss himself, has no option but to demand larger discounts from the manufacturer or else give smaller discounts to the retailers he serves.

Again, there is the competition of the wholesale grocer to meet in the handling of many patent medicines and toilet articles. The grocers are restrained by law from selling drugs, but there are many patent medicines and toilet articles which they may and which many of them do sell. The wholesale grocery house can do business on a 9 per cent or 10 per cent basis, but the expenses of the wholesale druggist are higher. The Harvard Bureau of Business Research, in its 1924 study of the operating expenses of wholesale druggists, gives 15.8 per cent as the "common" figure representing operating expenses in the wholesale drug business. Some returns showed lower costs, some higher; but obviously the wholesale druggist has higher operating costs than the wholesale grocer, and must therefore experience difficulty in meeting price competition from this source.

All these changes are but a part of the modern revolution in merchandising methods. The whole distributive system is in a state of flux, and the wholesale trade has been unable to adjust itself to the rapidly changing conditions. It performs less service, but its operating costs have not been correspondingly reduced; consequently it requires for its present limited services as much compensation as formerly, when it performed more or less complete services for all manufacturers and all retailers.

If the manufacturer is taking over some of the functions of distribution, the wholesaler, in turn is entering the manufacturing field, and is adding to the number of proprietary articles by putting out private brands, and, despite his protests against similar practices of the manufacturer, is selling them direct to the retailer. Naturally, as competitors of other manufacturers in many lines, such wholesalers are becoming less and less to be relied upon as agencies for the distribution of other manufacturers' goods. The point is, however, that the distribution problem is further complicated rather than simplified by this further increase in the number of competing brands.

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[1] According to a recent study made by the Harvard Bureau of Business Research, 87 per cent of the sales of wholesale druggists in 1924 were made to unit drug stores (so called to distinguish them from stores which are not owned and managed as single units), only 1 per cent to department stores, only 2 per cent to chain stores, and the balance of 10 per cent to general stores and confectionery and other stores.

There are some obvious reasons why the costs of distribution in the retail drug trade are higher than those in most other lines of business. That they are high is borne out by studies of the Harvard Bureau of Business Research made in 1919, when figures representing the operating expenses of 187 American drug stores were assembled. The following is a comparison of these returns with the results of other studies, shown as percentages of net sales:—

—	Drugs	Jewelry	Hardware	Groceries	Shoes
Total Expenses (% of net sales)	27·6	32·3	21·0	14·6	24·0
Net Profits (% of net sales)	6·3	7·6	5·8	2·0	9·0
Gross Margin (% of net sales)	34·0	40·1	27·1	17·0	33·1
Stock-Turn (times per year)	2·3	1·1	2·1	8·3	1·8

These are the " common " figures for the different trades. Further analysis of the returns of the retail druggists shows the following results:—

—	Common	Lowest	Highest
Total Expenses (% of net sales)	27·6	17·7	42·9
Net Profits (% of net sales)	6·3	−6·3[1]	19·4[2]
Gross Margins (% of net sales)	34·0	20·6[3]	50·1[4]
Stock-Turn (times per year)	2·3	1·1	7·4

One reason for high operating costs in the retail drug trade is the professional training required by law of the managers of drug stores and of all who undertake to fill prescriptions and dispense drugs. Even though its dispensing business should represent only 1 per cent or less of its total sales[5], the small drug store must employ the trained pharmacist, whose services may be used chiefly in selling articles which could be sold, and which are sold in larger drug stores and in department stores, by salespeople without technical training. When drug stores turn to the selling of tea, cigars and tobacco, stationery, magazines, and all the rest of the modern druggist's miscellaneous stock-in-trade, they very frequently use the trained pharmacist for this sales service, and thus enhance the cost of selling. After all, on this basis it costs a druggist as much to sell a pound of tea as to sell a bottle of patent medicine.

The exceptionally large number of items in a druggist's stock, different commodities and different brands and sizes, and, consequently, the necessity of purchases of most lines in small quantities, already referred to, account in part for the heavy operating expense.

Low rate of stock-turn is another element making for high distribution costs. The table above shows the turn-over of at least one of the stores as only once a year; another shows a stock-turn of more than seven times a year; the common figure is given as 2.3. Obviously, the druggist who takes a

[1] 16 out of 187 stores showed a net loss. The store showing the heaviest loss (6.3 per cent of net sales) showed also the highest total expense.

[2] The store with the highest net profit (19.4 per cent) had the lowest total expense.

[3] Only a few stores showed gross margins less than 28 per cent.

[4] Gross margins exceeded 40 per cent in only a small number of stores.

[5] The Harvard Bureau reports that 10 per cent of net sales is a "common" figure for dispensing. Actually, however, the figure is very much less in the case of the small corner drug store, which in many instances has less than 1 per cent of its sales from the filling of prescriptions. The common figures for all articles are given as follows:—

Prescriptions	10 per cent.	Candy	5 per cent.
Proprietary Medicines	22 per cent.	Tobacco	8 per cent.
Toilet Articles	10 per cent.	Soda	14 per cent.
Rubber Goods	3 per cent.	Other Goods	28 per cent.

year to dispose of his stock requires a much higher rate of return than the merchant who can get rid of his in less than two months. The latter is entitled to a larger remuneration, and doubtless gets it; his customers are also entitled to some advantage, though conceivably the druggist with the slower turn-over would object to the giving of any such advantage, regarding it as "vicious price-cutting" and unfair competition generally.

As between different items in the druggists' stock, there are striking variations in the rate of stock-turn. Some of the less advertised standard articles which a druggist must carry sell slowly and the gross margin on them is of necessity high. Certain seasonal goods, also, sell quickly for a short period but represent dead stock for the rest of the year. But there are hundreds of articles, advertised nationally by the manufacturer, used the year round, and sold with little effort on the part of the druggist, which move so rapidly that a relatively small rate of return is sufficient to compensate the dealer adequately for the service performed. Many such goods have been more than half sold before reaching the druggist's shelves; it is the matter of only a moment to wrap the articles and complete the sale. There is an element of risk, of course, in carrying stock of any kind—"styles" change in dentifrices and patent medicines, as in clothing—but, on the whole, losses on this account in the drug trade are not likely to be as heavy as in most other lines of business.

One of the main reasons for the slowness of the turn-over of the average druggist is the large number of druggists in the business. The retail grocery business and other branches of trade are suffering from the same plethora of distributors, both wholesale and retail. When it is considered that Canada as a whole has one retail merchant to every 72 people, or one retailer to every 16 families[1]; that in the city of Toronto, to take one city as an example, there is one retail merchant to every 59 people, or about one to every 13 families (the proportion in Montreal is approximately the same), it is apparent that the number of distributors is excessive, and that this excess means higher distribution costs and therefore higher retail prices. The Canadian public is not purchasing enough in the way of patent medicines and toilet articles and drugs generally (and this is true also of the United States) to provide for the upkeep of the number of druggists who are operating. We have 3,300 retail drug stores for a population of nine and a third millions, as compared with some 9,000 or 10,000 chemists in Great Britain for a population of about 45,000,000. Even allowing for the larger territory to be covered, the comparison is unfavourable to Canada. In some Canadian towns the number of drug stores has doubled or even trebled in the past two decades, out of all proportion to the demands made by increasing population. The following table shows the number of persons per retail drug store in some of the larger cities and towns.[2] The source of this information does not list the separate branches of chain stores which are operated under one management; if these were added, the proportion of stores to population would be even higher:—

[1] Based on the number of retailers in Canada in 1925 as 129,689 (as estimated by the Dominion Retail Merchants' Association), Canada's population in 1925 as 9,364,000, and the average number of persons in a Canadian family, according to the 1921 census, as 4.62 (as estimated by the Dominion Bureau of Statistics).

[2] The table is made up in the following manner. From a list in order of 1921 population figures of Canadian cities and towns given in the Canada Year Book, 1924, the first seven cities were selected. From there on every tenth city was taken. The number of druggists in each city was determined from the "Canada and Newfoundland *Gazetteer*."

—	1906	1914	1910	1925
Montreal	3,900	2,500	2,400	2,230
Toronto	5,500	2,100	2,300	1,469
Winnipeg	2,600	2,100	2,200	1,535
Vancouver	2,500	1,200	1,300	1,136
Hamilton	2,900	3,200	2,800	1,952
Ottawa	2,800	2,900	2,400	1,635
Quebec	4,700	3,700	2,200	2,748
Calgary	4,400	2,160	2,300	1,954
Saskatoon	2,800	1,140	1,830	2,060
Peterboro	1,600	2,110	1,810	1,614
Lachine	1,700	6,500	2,090	2,800
Charlottetown	1,130	1,260	1,100	1,400
Amherst	1,600	1,840	1,940	2,570
Sydney Mines	6,135	2,570	4,050	4,350
Grand Mere	3,000	5,600	3,500	1,460
Granby	1,500	1,060	1,500	1,825
New Waterford	....	750	2,000	7,500
Nelson	2,360	1,225	830	1,400

Over the whole of Canada, the increase in the number of drug stores relatively to population is represented by the following:—

In 1908 Canada had one drug store to every 3,297 people
1914 " " " 3,030 "
1919 " " " 3,152 "
1925 " " " 2,624 "

Since the public demand for the goods which once were regarded as the appropriate stock of the drug store is not sufficient to keep all the drug stores profitably active, the remedy has been, not to reduce the number of drug stores, but to change the character of the business to such an extent that the modern druggist is competing with the grocer, the hardware merchant, the florist, the confectioner, the stationer, the tobacconist, the restaurateur, and a host of others. Of these retailers also there are already too many, and public needs are more than adequately served by them. But the druggist supplements their services by his own, even though he cannot ordinarily buy to the same advantage, and even though his general operating costs are higher.

This kind of competition, the competition of excessive numbers, may be the death rather than the life of trade; certainly the public suffers from it more than it benefits. In the days when package goods formed a smaller proportion of the druggist's stock, competition between stores was more real. Nowadays there are no great variations in stock between different drug stores of the ethical type, as they are known; their stocks are all but identical, and the tendency seems to be to make them completely so. However, as between these ethical drug stores and some of the chain and other drug stores of the modern type, there are differences in buying and selling methods, in operating expenses, and usually, in selling prices. The latter class of store provides what real competition there is, but it is this competition to which the orthodox dealers take exception and which they would like to see eliminated; it is the disturbing element in the business.

In the face of these changing conditions, which represent a revolution in merchandising methods[1], the Proprietary Articles Trade Association proposes a rigid system of price-fixing and price-maintenance which would keep trade to the traditional channels of "manufacturer to wholesaler to retailer to consumer," compel all dealers to charge the same prices regardless of variations in their

[1] The National Industrial Conference Board of the United States published a year ago a volume entitled "Public Regulation of Competitive Practices." From the chapter on "Modern Changes in Methods of Marketing," which treats fairly and comprehensively of the problems suggested by its title, excerpts have been made and appear as Appendix F to this report.

operating costs, prevent the public securing full advantage of such improved methods of distribution as have developed, and render useless if not impossible further experimenting which might result in reducing the admittedly excessive costs of modern distribution.

Unquestionably, the conditions against which the whole system is aimed have been hard for the regular wholesale and retail druggists, and they are justified in taking some measures in self-defence. The lower prices of the chain stores, department stores and mail-order houses have made it difficult for the smaller retailers to hold their own, and the loss of business to the wholesalers, through direct buying from the manufacturers, has been a severe one.

The chain store has entered into competition not only with the retailer, in the larger cities, but also with the wholesaler and the manufacturer, and tends to cover ultimately the entire field from manufacturer to consumer. Part of its economy results from the replacing of the wholesale house with the chain's warehouse. There is a tendency also for the chain to develop its own brands, and also to manufacture on its own account. The chain store has been held as the worst offender in the drug trade in the matter of price-cutting. Seeking to build up its own good-will rather than that of the manufacturer, it has specialized on the cutting of well-known advertised articles, and also in the substitution of privately branded articles of a similar nature.

Because of the volume of its sales, the chain has the advantage of cheaper buying. It claims also lower operating costs; the leading chain drug store in Toronto, for instance, advertises its cost of doing business as 26 per cent on sales. This figure covers all warehousing and selling costs. The Harvard Bureau of Business Research estimates 34 per cent on sales as the common figure for retailers alone, and the Proprietary Articles Trade Association aims to secure $33\frac{1}{3}$ per cent on sales for the retailer and $16\frac{2}{3}$ per cent for the wholesaler. Obviously the independent retailer, buying less advantageously and operating at a higher cost, finds himself hard-pressed by this competition. A solution has been sought in the formation of retailers' buying groups, in an attempt to eliminate the heavy overhead of the full-service wholesaler. The co-operative wholesale house, a buying group on a more permanent basis, has also been of assistance to the unit retailer. One such organization in Ontario, the Drug Trading Company, has a membership of several hundred; its special advantages to the retailer cease, however, so far as discounts on the articles on the Proprietary Articles Trade Association list are concerned, with the coming into effect of the new price protective plan.

Another direction in which the unit retailer has sought to meet the situation has been in the cutting of his own prices to develop volume of business. For the regular unit store, however, the margin by which sales can be increased is comparatively limited, and consequently price-cutting is likely to bring meagre results. If, for instance, a retailer is handling a $1 article on a 40 per cent margin, he must increase his sales by $33\frac{1}{3}$ per cent to offset a 10 per cent cut in price.

Much price-cutting on the part of unit retailers is based on ignorance of operating expenses, although this is probably true to a less extent in the drug trade than in others. A surprising number of retailers are ignorant of the cost of doing business or of the margins which they require in order to show a reasonable profit. In almost every establishment it is necessary to charge a higher margin on some goods than on others, and in the case of a considerable number of retailers there is no accurate knowledge of anything but the final result. The retailer knows whether he is able to make his living or whether his store is unsuccessful, but in many cases he has not analyzed his business sufficiently to know what are the profit-making lines, and what are the lines on which he is losing.

As pointed out before, the evolution of the drug trade has reached the point where there are but few ways of differentiating one retail dealer from another.

One of the chief differences left is the difference in price, and many retailers have been quick to try to build up individual reputations on the basis of reduced prices. This can only be done over all goods if the operating expenses are also low, but it may be done with great advertising effect if the prices on certain well-known articles are reduced, and thus there has grown up the practice of selling articles at prices far below the advertised prices, and in some cases at prices below actual cost. A well-known case is that of Pepsodent tooth paste with an advertised price of 50 cents, frequently sold by chain and department stores for 29 cents, although it is stated that it costs the small retailer 33 cents and the department store 30½ cents. Eno's Fruit Salt, advertised at $1 and retailed at 69 cents by certain stores, is in a similar position. On these price leaders the price-cutting store makes a very small gain or may even suffer a direct loss, but the loss is charged to advertising. The cut price brings people to the store who know that Pepsodent tooth paste at 29 cents is a bargain, while a certain prescription filled at 75 cents may be either cheap or dear since they have little or no knowledge of the reasonable price. This has led to the charge by the non-pricecutter that all reductions in price are simply "honey to catch flies", and that the normal margin or more is made up on other lines. Since any store, chain or unit, operates for its net profit, undoubtedly all direct losses on advertising leaders are made up on other goods. It is not necessary, however, that they should be made up to the normal margin of other stores since the price-cutter may operate at a lower cost.

A question which it is difficult to settle except by the direct evidence of those concerned is the question of the extent to which manufacturers have aided price-cutting through giving "inside prices" to the chain and department store to enable them to carry their goods as leaders. The buying power of the chain is so large that the manufacturer is often unwilling to refuse a large order even though it be taken at a reduced margin of profit.

A kind of price-cutting to which the drug trade has been particularly subject has been the so-called one-cent sale or two-for-one-sale. It is difficult to formulate any sound basis for this type of sale other than the desirability of cleaning up slow-moving stock periodically. Since these sales are carried out to a large extent on proprietary articles, the reductions in value can be recognized and are undoubted. There is a gain to the shop running such a sale if otherwise dead stock is cleared up, but it has a particularly deadening effect on the trade of competing stores, since the customer is induced to buy in quantities and frequently stocks up for a considerable period. There is no doubt as to the disturbing effect of the one-cent sale and it is not certain that it is of much aid to the retailer. It is likely to encourage what the merchandiser usually finds it desirable to discourage—periodic or spasmodic buying. Not only does the consumer purchase in considerable quantities, but he actually withholds purchases in anticipation of the next recurring sale.

Undoubtedly the unit retailer has a strong case in his protest against the frequent practice of the chain store in selling below cost. This type of price-cutting does not depend on the greater efficiency of the distributor making use of it, but on the advertising value which an extreme price-cut has for the sale of other goods. The dealer's only benefit is through its influence on his other sales. The "bargain" in one article may create a presumption in the mind of the customer that other articles in the store are equally cheap, and thus general sales will be promoted. The advertised "bargain" (usually a well-known proprietary) may simply impress the name of the dealer on the mind of the public as a trade-mark is so impressed.

Such price-cutting has an immediate benefit for the dealer though it may have a bad effect in the long run. As far as the manufacturer is concerned, it increases his sales in the price-cutting establishments but hinders his sales in

those establishments which maintain prices. His product may have the good-will of the public but it lacks the good-will of the dealer since it is " a cut-price article," an article which can only be sold in small quantities at the advertised price or in larger quantities at a price which allows little or no margin of profit. The dealer in such a case occasionally ceases to stock such an article, or more commonly hinders its distribution by offering substitutes for it to prospective customers. Thus the manufacturer has his channels of distribution clogged, and the dealer has his margin of profit pared to the bone.

The more spectacular cases of " predatory " price-cutting, selling goods at cost or below cost, affect a comparatively small group of articles at any one time, and the dealer's increased volume on other lines brings compensation for his losses. Thus he secures advantage over his non-cutting competitor, not only through increased business at the time, but also from the reputation established, deservedly or otherwise, for low prices on all lines. Not all drug stores are seriously affected by this competition: the so-called neighbourhood stores, for instance, and stores outside of the large cities, are not forced to meet these lower prices. The practice is irritating in effect rather than fatal even where competition is keenest; it is not as widespread in extent or effects as is alleged. After all, the fields of the chain store and department store are strictly limited. They cannot operate apart from the large centres of population, which fact of itself suggests that the secret of their success lies in mass-merchandising and its economies, rather than in the " tricky advertising " of "price leaders." The neighbourhood drug stores have convenient locations which enable them to serve a clientele which the chain stores cannot reach. The chain stores have made and will continue to make inroads on the unit store; they have found progress easy because of the slackness and inefficiency of many small merchants. Naturally, such inefficiency, in the face of keen competition, has been responsible for business failures. From the viewpoint of the public interest, this should be regarded, not necessarily as an evil—(the percentage of failures has really been less in the drug trade than in most other lines of business)—but as a beginning in the solution of the problem of the excessive number of drug stores. Few, however, will question the public advantages which lie in the retention of the neighbourhood store and the small merchant; the bulk of the evidence obtainable is to the effect that the unit store cannot be wholly displaced by the chain and department stores, and that there is a definite saturation point for the latter in any community. The unit store has been stimulated by the new competition to greater efficiency, and is coming to find its place in the service of the community; it can hold its own in the field even without any artificial protection designed to guarantee profits and to prevent price competition.

III. BEARING OF THE COMBINES INVESTIGATION ACT ON THE P. A. T. A. AGREEMENTS

As already indicated, three points have to be determined before an offence can be found under Section 2, subsection 3 of the Combines Investigation Act.[1] Broadly stated, they are:

First—whether any actual or tacit contract, agreement, arrangement or combination exists;

Second—whether it has or is designed to have the effect of:—

(1) limiting facilities for manufacturing or selling; or
(2) lessening manufacture or production; or

[1] The section is quoted in full in Appendix A to this report.

(3) fixing a resale price; or
(4) enhancing price or cost; or
(5) lessening competition; or
(6) restraining or injuring trade or commerce;

Third—whether the public interest has been or is likely to be detrimentally affected thereby.

A. Whether an Agreement Exists

As to the first point, no question is raised even by the Proprietary Articles Trade Association. The Association has been duly constituted, and consists of manufacturers, wholesalers and retailers. Each member of the retailers' section, on applying for membership, has signed an agreement undertaking "not to sell any article on the list of the Association below the minimum prices to be set by the manufacturer with the approval of the Association." Each member of the wholesalers' section has signed an agreement to the same effect, agreeing in addition not to give any discount, rebate, bonus or concession off the list prices, and "to withhold supplies of all goods so protected from any person, firm or society named by the Secretary of the said Association as selling any of them below the stated prices." Each member of the manufacturers' section has signed an agreement "not to sell any of the articles manufactured by [him] enjoying the protection of the Association at prices other than those definitely quoted on the Association's list, or accepted by the Council of the Association;" also "not to supply any article on the Association's list to any person, firm or corporation named by the Council of the said Association as either (1) selling any proprietary article enjoying the protection of the Association below the stated minimum fair and reasonable prices...., or (2) supplying to anyone who sells at less than such stated fair and reasonable prices."

B. Whether the Agreement has or is Designed to have any of the Effects named in Section 2, Sub-section 3 of the Combines Investigation Act

Without attempting to classify the effects of the Proprietary Articles Trade Association under the above headings, for they are not wholly distinct and exclusive, some of the more obvious effects may be summarized as follows:—

1. *Fixing of Resale Prices.*—The agreements could not be clearer as to the intention to fix resale prices. Moreover, the intention has been carried out, as evidenced by the list of approximately 600 protected articles, with their minimum wholesale and retail prices attached, which was published by the Proprietary Articles Trade Association prior to August 28, 1926, on which date the new prices came into effect. True, the individual manufacturers have suggested the prices for their particular articles; but the modifications of the manufacturers' suggestions, the actual fixing of the prices, and the machinery to establish them, are the work not of the individual manufacturers but of the Association as a whole, and, in particular, of the Council of the Association by whom the suggested prices were reviewed, and by those authority the prices finally agreed upon were placed on the list.

2. *Limiting of Competition.*—The method of enforcing or maintaining the fixed prices is clearly set forth in the several agreements. It is to withhold supplies of *all* the articles on the Association's list from dealers who sell *any* of the articles at a price lower than that fixed as a minimum. This obviously is designed to eliminate the price competition of chain and department stores accustomed to sell certain articles at prices below those usually charged by the rest of the drug trade, as well as the price competition of other unit retailers who have effected reductions in their operating costs.

Competition in the wholesale trade will also be affected. The regular wholesale druggists will no longer experience the keenness of price competition of the wholesale grocers (particularly the cash-and-carry wholesalers) who handle patent medicines and toilet articles at lower margins. Co-operative societies and co-operative wholesale houses such as The Drug Trading Company of Toronto will no longer be able to give to their shareholders, through dividends and commissions, any of the advantages in price secured through co-operative merchandising, and the competition from these will therefore be substantially lessened.

As between manufacturers, too, there will be less competition from those who do not join the Proprietary Articles Trade Association, because of boycotting measures which have been advocated by the managing head of the Association. The following is quoted from a statement of Sir William Glyn-Jones appearing in "Drug Merchandising" on June 9, 1926:—

> If in your store you handle P.A.T.A. and non-P.A.T.A. proprietaries alike, you deserve all you get in the way of undue price-cutting. The organized retail druggists of the Dominion can, if they choose, make the merchandising of the non-P.A.T.A. proprietaries unprofitable to the manufacturer. There are perfectly legitimate ways of doing this, and I need not enumerate them. I make no apologies for asking you to make the path of the non-protecting proprietor of a proprietary article as hard as you know how. That should be your contribution to the success of the P.A.T.A.

As a consequence, manufacturers who are not members of the P. A. T. A., whatever their reasons for not joining the Association, will suffer from the operations of a combination representing almost the entire wholesale and retail trade, which aims to curtail the distribution of their products as much as possible.

In this connection it should be observed that manufacturers are not by any means unanimous in their approval of price-maintenance; but, under the plan of the P. A. T. A., once a certain number have established the Association the remainder are virtually compelled to join. The manufacturer finds himself confronted with a definite threat that unless he joins, the sale of his articles will be obstructed by the trade. (The assurance of the Association that there are legitimate methods of doing this does not weaken the coercion in any way). It is apparent that some members have joined simply because of this pressure, and that others who have not joined will find it necessary to do so if the Association continues its operations. It is fair to add that some have probably not joined, even though they approve, because of fears as to the legality of the plan.

Thus in the case of the P. A. T. A. it is not a matter of permitting manufacturers to fix resale prices; it means practically forcing them into a policy of price-maintenance, however desirable or undesirable such a policy may appear to be for their particular trade. That there are differences of opinion among manufacturers on this point is clear from the results of the United States Chamber of Commerce referendum in 1916, when 74 per cent of the votes cast were in favour of legislation *permitting* price-maintenance; in 1926, on a similar referendum, only 54 per cent of the votes were in favour. Again, The Kolynos Company, whose goods are on the P. A. T. A list, has stated: "On the one hand, we insist that there is such a thing as proprietary price-cutting which would be injurious to the manufacturer's good-will. On the other hand, there is an advantage in special sales and in occasional price-cutting in minimizing the resistance to the accessibility of our product."[1] It considers a cut of more than $16\frac{2}{3}$ per cent as unfair. In Canada another tooth paste manufacturer is stated to have endeavoured to fix a resale price for his product, the advertised price of which had been notoriously cut, and later to have asked to have it cut again as price-maintenance had decreased his sales.

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[1] Quoted from "Printer's Ink," March 11, 1926, in hearings before the Committee on Interstate and Foreign Commerce of the United States House of Representatives, H. R. 11, 1926, p. 356.

On the whole, from the fact that relatively few Canadian manufacturers have of their own initiative attempted to fix and maintain the prices of their own goods, it would seem that the majority do not favour the policy. It is only when they are threatened with the loss of the good-will of their distributors, and indeed, with their active opposition, that they feel it necessary to make the change.

3. *Enhancing of Prices.*—Compared with the prices of the ordinary unit store, the first P. A. T. A. price list does not show any substantial advance; some prices are higher, some the same, others are lower. The prices set are, of course, minimum prices, and the druggist is under no compulsion to reduce his prices if they are above the P. A. T. A. prices; whereas he is obliged to raise his prices if they have been below the P. A. T. A. minimum. In other words, protection is afforded the retailer against low prices, but is not extended to the consumer against high prices.

But this is only the *first* P. A. T. A. list; the margins which it provides for the wholesale and retail trades are not as generous as they will be, according to the assurances of responsible officers of the Association. It is evident that, in issuing its first price list, the Association has had in mind, wisely enough in its own interests, the public feeling which would inevitably be aroused were prices to be immediately advanced to the full extent contemplated. This is emphasized by the following extract from the report of an interview given by Sir William Glyn-Jones to a representative of "Drug Merchandising" in Toronto in March of this year:—

> Another important point stressed by Sir William was the advisability of being very cautious in taking the first step in increasing prices, so as to avoid the possibility of a public investigation into the legality of the movement.
>
> "The legality of the P.A.T.A. has been thoroughly investigated, and there is nothing to fear so long as the druggist is moderate in his demands," said Sir William. "The retailer must not look upon this as a millenium at once. Every movement must be taken with an eye to the public and its possible reactions to increase in prices."
>
> A minimum price list will be issued for the time being, containing the lowest price at which the druggist can sell the articles. For example, an article which should be sold for 40 cents will have a minimum price of, say, 35 cents. If this article has been previously cut to 25 cents, the increase in price will not be so drastic as it would if the top price was quoted. Furthermore, it will enable the department stores and "cut-raters" to show the price as 35 cents as against the advertised price of 40 cents and still create the impression that they are selling below the market value of the article. In time the minimum price idea will be abolished and the one price put into effect.

Again, in an article in "Drug Merchandising" in April of this year, Mr. Charles W. Tinling, President of the National Drug and Chemical Company, and a Vice-president of the Proprietary Articles Trade Association, states:—

> There can be perfect confidence that eventually full prices will be secured for everything, and this will be as soon as possible.

In the same article he repeats:—

> When the P.A.T.A. is fully operating, full prices will be obtained.

These statements are now confirmed in part by the scale of prices in the first P. A. T. A. list. Provision is made therein for gross margins for the wholesale and retail trades which fall short of the standard margins of $16\frac{2}{3}$ per cent on selling price for jobbers and $33\frac{1}{3}$ per cent for retailers which it is the ultimate aim of the Association to establish. It needs little argument to show that the design is ultimately to enhance prices to the consumer sufficiently to provide for these wider margins.

Whatever the ultimate effect may be, so far as the prices of the unit retailers are concerned, it is certain that since August 28 prices of goods on the P. A. T. A. list have been enhanced in the chain and department stores and in certain of the more aggressive stores of the unit type. Before the P. A. T. A. price schedule was announced, a number of these stores were requested to give

their prices on about 160 articles fairly representative of a druggist's stock of proprietary medicines and toilet goods. Of these articles, 105 were included in the first P. A. T. A. list. Comparing the returns of one of the chains with the P. A. T. A. prices on 97 of these articles, the following results appeared:—

Sixty-three were lower than the P.A.T.A. minimum (differences varying between 1 cent and 25 cents, but averaging 8.1 cents per article);

Thirty were the same as the P.A.T.A. minimum (on at least 19 of these the individual manufacturers already had fixed prices);

Four were higher than the minimum (differences were 2 cents, 3 cents, 5 cents and 6 cents), but all have been sold below the P.A.T.A. minimum at some time during the year.

The return shows that in no case were these particular articles being sold below invoice cost on the day on which the return was made. The gross margin of this company on these articles worked out at 29.6 per cent on selling price, a sufficient margin, according to the management, to cover all operating expenses and provide a satisfactory net profit. The prices quoted were declared to be those usually in effect. Lower prices, however, had been charged, at some periods in 1925-26, on almost all the articles listed with the exception of those already protected in price by the individual manufacturer; in a few of these instances prices actually below invoice cost had been effective for short periods.

Whatever the effect upon the public—and this aspect will be dealt with in the next section of this report—it is abundantly clear that there has been enhancement of prices, and that it is designed that there shall be further enhancement.

C. Whether the Public Interest Has Been or is Likely to be Detrimentally Affected

It has been impossible to describe the P. A. T. A. plan thus briefly and to discuss its operations without indicating certain of its more obvious actual or likely effects on the public, and without disclosing that the inquiries made have led to the conclusion that the Association has operated and is likely to operate "to the detriment of or against the interest of the public". It remains to summarize the principal grounds on which this conclusion is based.

1. *Enhancing of Prices.*—The enhancement of prices, it is recognized at the outset, is not always of necessity a detriment to the public. Prices can be unreasonably low as well as unreasonably high, and the public interest is likely to be as well served in the one case by an advance as in the other by a reduction in prices.

CUTTING OF PRICES BELOW COST

Where prices have been cut down to or nearly to the cost of the article to the retailer, there has been justifiable complaint. If one dealer sells an article at a price which contributes nothing to the operating expenses of his store, another dealer is forced, it is alleged, to handle the article, if at all, at the same unremunerative price. It then becomes a recognized "cut-rate" article which no dealer wants to handle except as a "leader".

With the intention of discovering some indication of the extent to which articles become definitely marked as "cut-rate" and the extent to which all stores advertising low prices quoted the same articles as "leaders", the following tables are compiled from the price returns of eight firms operating department and chain stores advertising "cut prices" in Toronto. The calculations are based on 97 articles which were found to be comparable in all the returns. It was observed that some department and chain stores cut prices to a figure which was equal to or a cent above their own cost, but below the cost of the ordinary unit drug store buying in smaller quantities, and hence this has been included as essentially "below-cost" price-cutting.

PRICE-CUTTING, TORONTO—EIGHT STORES, NINETY-SEVEN ARTICLES

Firm	Number of articles sold 1 cent above cost or lower on day prices were given	Number of articles sold below cost on day prices were given	Number of articles sold 1 cent above cost or lower during the year	Number of articles sold below cost during year
1	6	3	19	9
2	1	0	58	2
3	2	0	51	22
4	0	0	14	5
5	1	0	4	0
6	2	0	24	8
7	1	0	11	3
8	1	0	18	13

Total number of articles cut below cost during the year

30 out of 97

14	cut by	one firm
8	"	two firms
5	"	three firms
2	"	five firms
1	"	six firms

Total number of articles cut to 1 cent above cost or lower during the year

69 out of 97

18	cut by	one firm
18	"	two firms
11	"	three firms
10	"	four firms
5	"	five firms
1	"	six firms
6	"	seven firms

A wide variation will be noticed in the number of articles sold by the 8 stores at a price one cent above cost or lower. At some time during the past year firm No. 5 sold only 4 out of 97 articles on these terms. Firm No. 2 sold 58 out of 97 at these prices. On the actual day on which the price reports were made only 3 articles were being sold below cost and these by a single firm, as indicated in the table, though all the firms but one were selling articles varying in number from 1 to 6 at one cent above cost or lower.

It may be noted in the second table that 30 articles out of 97 were sold during the year by one or other of the eight firms at less than cost and 69 at a cent above cost or lower. Only three articles out of 30 articles, however, have been cut below cost *by more than* three out of the eight firms during the year and only 22 articles out of 69 have been cut to one cent above cost or below *by more than* three out of eight firms. On the other hand, six were cut by seven firms and five by five firms.

The conclusions to be drawn from these facts are that a very considerable proportion of the widely-known proprietary articles are cut and cut seriously by the low-price drug stores of the larger cities. This price-cutting is done for advertising purposes and cannot be justified on the ground of large turnover and low operating expense. Only in a few articles, however, do all stores or even all "cut-rate" stores follow suit. The tendency is to cut different articles rather than to compete in the cutting of the price of the same article, and to maintain the cut price for only a short time. As pointed out later, an examination of the price of 13 low-price stores showed that they were not carrying proprietary articles as a whole at a loss but at gross margins of 22 to 32 per cent on selling price. Some of the low prices on individual articles, then, are not justified by low operating expenses and rapid turn-over, but on proprietary articles in general the margin is not out of line with the general margin for drug stores, for which the Harvard Bureau gives 20 per cent of selling price as a minimum. All of the low-price stores referred to took a larger margin than this on common proprietaries.

It has not been possible to pursue similar investigations in smaller cities and towns but it seems reasonably clear that competition is here less keen than in larger cities like Toronto and Montreal. Ottawa, for example, has far less drastic cutting of advertised prices than has Toronto.

"Predatory" price-cutting does exist then and to a considerable extent, particularly in the largest centres. Even in those centres, however, all dealers need not and do not meet the prices of the price-cutters. Without doubt such price-cutting is disturbing to the trade and unfair to the manufacturers of proprietaries, but equally, without doubt, its extent is exaggerated. It does not follow, in any case, that the P.A.T.A. is a suitable remedy.

THE EFFECT ON WHOLESALE PRICES

Declarations have been received from wholesale drug firms showing "the manufacturer's best price (net) to the jobber" and "the jobber's best price (net) to the retailer" for the 160 proprietary articles already referred to. Because of discrepancies in the returns and changes in sizes, etc., the list was reduced to 97 and comparisons made on the basis of this standard list.

It will be noted in the table presented, which is composed of the returns of 15 wholesale drug firms, that there is some variation in all the figures given. This is less noticeable in the wholesalers' cost prices than elsewhere. The highest cost reported by a wholesaler for the 97 articles was $35.34 as compared with the lowest of $32.15, a difference of $3.19. The variation in this case is narrow and the wholesaler's cost does not in any case diverge widely from the median figure of $33.17. Insofar as the 97 proprietary articles are to be considered representative of all proprietary articles, the evidence is that the wholesalers buy on substantially similar terms.

PRICES OF FIFTEEN WHOLESALE DRUG FIRMS

Firm	Selling price	Cost price	Margin	% of selling price
	$ cts.	$ cts.	$ cts.	
1	40 26	32 86	7 40	18·4
2	40 58	33 17	7 41	18·3
3	41 54	33 95	7 59	18·3
4	39 78	33 31	6 47	16·3
5	37 92	32 15	5 77	15·2
6	39 63	33 40	6 23	15 7
7	40 02	34 08	5 94	14·8
8	39 73	34 06	5 67	14·3
9	38 80	33·32	5 48	14·1
10	37 94	32 85	5 09	13·2
11	37 87	33 06	4 81	12·8
12	37 79	33 09	4 70	12·7
13	37 58	33 17	4 41	11·7
14	36 11	33 16	2 95	8·2
15	36 58	35 34	1 24	3·4
Highest	(3) 41 54	(15) 35 34	(3) 7 59	(1) 18·4
Lowest	(14) 36 11	(5) 32 15	(15) 1 24	(15) 3·4
Median	(9) 38 80	(2 and 13) 33 17	(8) 5 67	(8) 14·3

When the wholesaler's selling price to the retailer is considered, the variation is much greater. The highest selling price reported for the 97 articles was $41.54 and the lowest $36.11, a difference of $5.43. The median amount[1] is $38.80. The gross margin retained by the wholesaler on these 97 articles shows still more extreme variations. From the highest figure of $7.59 to the lowest of $1.24 there is a difference of $6.35. The median figure is $5.72. When the gross margins are shown as percentages of selling price, the highest figure for

[1] Median occupies the middle position in a list of figures, i.e., there are the same number of figures above as below the median.

the 15 firms is 18.4 per cent, the lowest 3.4 per cent, the difference 15 per cent and the median 14.3 per cent. This gross margin on 97 proprietary articles is, of course, not to be confused with the firm's net profit on its entire business. It merely represents the amount retained by the firm out of the selling price of the 97 articles to cover its operating expenses and its net profit, if any.

This survey of wholesalers' prices, though of limited scope, leads to important conclusions. In the first place it is shown that the variations in the wholesalers' "best" prices to the retailer are substantial and significant. The difference between the lowest and the highest prices, $5.43, is significant when it is noted that the median gross margin for the 15 firms is only $5.72. Insofar as the 97 articles here considered are fair samples of all proprietary articles, there is evidence that the discriminating retailer has reaped substantial advantage by buying from low-price wholesale firms. The establishment of fixed minimum prices as carried out by the P.A.T.A. obviously takes away this advantage and reduces the pressure upon the wholesaler to make economies in the merchandising of his stock.

In the second place it will be recalled that the avowed aim of the P.A.T.A. is to establish for all proprietary articles a minimum wholesaler's margin of $16\frac{2}{3}$ per cent. It will be noted that on the 97 articles taken as representative, only 3 out of the 15 wholesalers made $16\frac{2}{3}$ per cent or more prior to the P.A.T.A. Obviously then the adoption of the P.A.T.A. means that wholesalers' prices are enhanced.

THE EFFECT ON RETAIL PRICES

With regard to retail prices, returns were obtained from all drug stores in the city of Ottawa and from 13 low-price stores in Toronto, Montreal and elsewhere. The latter returns showed the actual selling price of certain articles on the day on which the returns were made, the usual selling price, the lowest price charged during the past year and the invoice cost. Comparisons have been made on the basis of 97 standard articles on which comparable prices have been given:—

PRICES OF NINETY-SEVEN PROPRIETARY ARTICLES IN THIRTEEN LOW-PRICE DRUG STORES

Firm	Actual selling price	Invoice cost including all discounts	Margin on selling price
	$ cts.	$ cts.	%
1	46 71	34 38	26·6
2	50 19	36 66	26·9
3	47 75	36 17	23·7
4	49 45	33 37	32·5
5	49 94	36 57	26·7
6	48 91	36 78	24·8
7	47 96	33 95	29·0
8	47 87	33 71	29·5
9	46 40	36 06	22·2
10	47 80	34 45	27·9
11	48 52	36 39	25·0
12	48 71	34 47	29·2
13	51 28	35 69	30·4
Highest	(14) 51 28	(6) 36 78	(4) 32·5
Lowest	(10) 46 40	(4) 33 37	(10) 22·2
Median	(12) 48 52	(14) 35 69	(2) 26·9

The above table shows for 13 low-price drug stores in Eastern Canada actual selling prices and invoice costs for 97 articles, and the percentage of gross margin to selling price. It will be seen that aggregate prices vary from

a high point of $51.28 to a low of $46.40, while costs vary from $36.78 to $33.37. The median selling price is $48.52 and the median cost $35.69. The gross margins on selling price vary from 32.5 per cent to 22.2 per cent with a median of 26.9 per cent. It should be remembered in considering percentage margins of chain and department stores that, insofar as they purchase directly from the manufacturer. their margins are to be compared with the combined margins of retailer and jobber. The median selling price of the above low-price stores was $48.52, the median margin 26.9 per cent. If the desired P.A.T.A. margins, totalling 44.6 per cent of retail price, were applied to the median price of manufacturers to wholesalers, the final selling price would be $59.87, a figure which shows a sharp advance over existing prices, and fairly represents the minimum at which the P.A.T.A. aims.

Thus even among the low-price stores there is a considerable variation in prices and in margins. The public can make a saving of about 10 per cent by buying the 97 articles in question at the least expensive rather than the most expensive of the low-price stores. In the city of Ottawa the *lowest* price for which these 97 articles could be purchased was $51.25, or almost equal to the highest price of the low-price stores. The highest price in Ottawa was $56.20 or $9.80 above the lowest price in the cut-rate stores in the other cities. There are many other factors to be considered in comparing prices in one city with prices in others, but the evidence shows clearly wide variations in prices of which the public has taken advantage, and which the P.A.T.A. modifies by enforcing minimum prices. At P.A.T.A. minimum prices these articles are bought for $52.92 or about 10 per cent above the median selling price and 14 per cent above the lowest selling price for the same articles at the 13 low-price stores. Obviously the public loses to this extent.

It has been sufficiently emphasized that the margins retained by the retailers on proprietary articles vary with every store. The present investigations show margins as low as 22 per cent on proprietary articles. The Harvard Bureau quotes a margin as low as 20 per cent on all the business of a certain drug store. In other stores the margins are above 40 per cent. The P.A.T.A. is committed to the ultimate establishment and maintenance of a retail margin of $33\frac{1}{3}$ per cent of selling price, which means (since the Association takes this figure as a common figure for all drug stores) that at least half the retailers are forced to raise their prices.

It is important to note also that many stores continue to sell at relatively high prices in spite of the competition of cut-rate stores. In Ottawa, stores in the centre of the city within a few blocks of each other sell the 97 proprietary articles at $51.25, $54.68 and $55.80. There is evidently a wide margin which the public is willing to pay for convenience of location, reputation, courtesy of service, and the other elements of dealer's good-will. Because the P.A.T.A. minimum prices as at present established are not higher than those of the average drug store is no reason for assuming that prices are not thereby raised. Since average prices are now enforced as minimum prices, all prices below the average are raised. The stores to which good-will attaches can always command greater prices even in the face of low-price competitors. The establishment of P.A.T.A. minimum prices permits the whole price-scale to be raised. With their low-price competitors forced to conform to P.A.T.A. prices, the high-price stores are relieved from the pressure which has prevented their prices from going still higher. Up to the present it is in general the prices of only the chain, department stores and mail order houses that have had to be raised, though reduced competition may have permitted other stores to raise prices also. The present minimum prices are, however, as has been pointed out, only stages on the road to the ideal margin of $33\frac{1}{3}$ per cent, and, if, as the retailer expects,

that margin is to apply to the average small drug store, the prices of a large proportion of unit stores will have to be increased to provide the required margin.

According to the P. A. T. A. list of minimum prices, at least $52.92 will be charged for these 97 articles by the retailer. On the most favourable terms and in the largest quantities, the articles may be sold by the jobber at $36.99, which leaves the retailer a margin on these commodities of 30.1 per cent of selling price. For most retailers who cannot buy in large quantities the margin is considerably lower than this. As stated earlier, it is the intention of the P. A. T. A. to bring this margin later up to 33⅓ per cent, but at present a considerable part of the benefit of the established minimum price goes to the jobber rather than to the retailer.

It has not been thought desirable at this time to undertake an extensive investigation into the operating expenses of retailers and wholesalers. The investigations of the Harvard Bureau of Business Research, referred to earlier, provide ample evidence of the wide variations of the operating expenses of different firms. Similarly wide variations in selling prices are recorded in this report. There is nothing in the agreements of the P. A. T. A. to prevent the manufacturer from competing with other manufacturers and increasing his volume by lowering prices. The efficient distributor is still allowed, through quantity discounts, an advantage in making his purchases but he is prevented from increasing his business by offering to pass on some of his economies to the public in the shape of lower prices on proprietary articles.

2. *Stereotyping the Distributive System.*—The present enhancement of prices by the P. A. T. A. and the increases likely to follow the publication of further price lists will be unquestionably against the public interest; but even more seriously detrimental to the public ultimately will be the effects of the artificial restraint which the P. A. T. A. system imposes upon business. The whole distributive system has been undergoing rapid changes; more rapid in the past decade, it seems, than in preceding years, but there is no evidence that we have reached the end. Improvement there has been, and must continue to be, if the public is to be relieved of the burden of the still inordinate costs of selling and distributing goods. There will be no advance, however, if a powerful trade combination such as the P. A. T. A. is permitted to set up a rigid system of distribution designed to establish irreducible selling prices, thus eliminating price competition and definitely committed to absorbing 44 cents of the consumer's dollar to cover the cost of wholesale and retail distribution, in addition to such selling and distributing costs as the manufacturer himself may incur.

Business itself, in the United States, less than a year ago expressed itself forcibly to the same effect in treating of this problem, when the Committee on Methods of Distribution appointed by the National Distribution Conference gave the following as one of its five conclusions:—

> Marketing methods have been continually improved through the competitive attempts on the part of manufacturers and distributors to find better methods. Marketing channels and methods are not cut and dried. There is continuous experimentation. In some cases trade associations have attempted to block changes in selling methods. Manufacturers have been boycotted by jobbers, for example, because they have attempted direct sale to retailers. This is not right. Progress in marketing methods can be made only under a regime of free competition, whereby each producer or middleman is free to try new methods. Artificial restraints are to be condemned.

New agencies such as chain stores, department stores, co-operative wholesalers and buying groups or exchanges have arisen which make economies in distribution as Henry Ford made them in manufacturing by means of mass operations, standardized practice and a wide market. These agencies cannot serve the entire population any more than every person will be satisfied with

a Ford car. They do, however, serve large numbers and they do so at a reduced cost. The reduced cost in most cases means also reduced service but the consumer is in many cases willing to dispense with the additional service. It is not necessary to the argument that the new merchandiser should be in a position to supplant entirely the old types. It is only necessary that he should reduce distributive costs to that class of people who live in large centres of population and choose to dispense with certain conveniences and services.

The distributor who pioneers and devises more efficient means of distributing goods increases his business by reducing his prices and so passing on part of his economies to the consuming public. If other distributors are to maintain their position they must effect similar economies or persuade the public that they offer greater service and that the greater service is desirable. By this method economies in the distributive system come about and are widely adopted.

Under a plan of price-maintenance, such as is embodied in the P. A. T. A., it is not possible for low-cost distributors to pass on to the consumer any of the economies effected. The cost to the consumer of proprietary articles must be the same regardless of what distributor is chosen. By this system a premium is put on the elaboration of service rather than the reduction of cost. The distributor who has a rapid stock-turn, and in consequence reduced operating expenses in proportion to sales, or who by buying in quantity gets the largest discounts suggested by the P. A. T. A., makes a larger net profit, but is not permitted to reduce prices and so enlarge the number of his customers; he can do so only by increasing his advertising and by increasing his service even though the public may be more desirous of lower prices than of more elaborate service. Thus through the shutting out of price-competition, there is less inducement and pressure towards the reduction of distributive costs. In consequence, progress in this direction is impeded. "This would seem to be a decisive reason against encouraging the fixed price system. It stands in the way of the experimenter. As regards the spread between the producer and the consumer, it looks to the maintenance of the status quo.[1]"

It is argued against this view that the maintenance of resale prices on proprietary articles does not exclude the low-cost distributor altogether. He is permitted to reduce prices on non-proprietary articles and stimulate trade by turning over at narrow margins articles bought in the open market. The more prevalent practice at present, it is stated, is to handle proprietary articles at low margins to attract the customers and sell other articles at unreasonably high margins. In this connection it should be noted that proprietary articles having a more rapid stock-turn, having a regular rather than a seasonal demand, and having been given extensive advertising by the manufacturer, are actually less expensive for the jobber or retailer to sell. It can be reasonably argued that the consumer, having paid manufacturer's selling costs on proprietary articles, should not have to pay as high a margin to the distributors as in the case of non-identified goods on which the manufacturer has expended little or no selling effort. The declared object of the P. A. T. A. is to obtain for dealers margins on proprietary articles equal to the average gross profit on all sales. This evidently requires the consumer to pay more than a proportionate distributing cost on those articles.

It is to be noted further that the object of the P. A. T. A. is to include all proprietary articles, and proprietary articles represent a large proportion of the druggist's stock-in-trade. It is not simply a question of a few manufacturers maintaining resale prices on a few of the articles sold by druggists, but of all manufacturers maintaining prices of all proprietaries which amount to at least 32 per cent (Harvard calculation) of the average druggist's sales, and in the case of many druggists a very much larger proportion. Of the remaining goods, such

1 Professor F. W. Taussig in *American Economic Review*, 1916, p. 161.

as rubber goods, candy, tobacco, many are themselves branded articles and in many cases may be subject to resale price-control though not included in the proposed P. A. T. A. list. Among the amazing number of miscellaneous articles sold by the present-day druggists are many which are in the nature of novelties or seasonal goods, and on them the public is not able to make price comparisons with any ease. This is also true of prescriptions. It will be seen, therefore, that, though the P. A. T. A. lists do not apply to all articles handled by druggists, they apply to these articles on which the public is most able to make price comparisons, and may be extended to a great many other articles so that practically the whole of the regular stock of the druggist may be brought under price-control. If the P. A. T. A. is considered beneficial to the public, it is difficult to see how similar action with regard to all branded goods handled by drug stores could be condemned and yet it is distinctly against public policy to establish fixed trading margins for an entire trade. Only by allowing business to be transferred to the man who carries it on most economically can the much-needed progress in the field of distribution be made.

Stress has already been laid on the excessive number of distributive agencies in the drug trade, as in practically every other line of business. The effect of the P. A. T. A. system will be to maintain the present over-supply by assuring even the inefficient merchant a fixed gross margin on all proprietary goods. To that extent it will reduce the competition which is the only force to be depended on to keep down the number of distributive agencies and the cost of doing business. At a time when the consumer would welcome a reduction in the number of druggists, the P. A. T. A. agreement grants fresh respite to the surplus by arbitrarily fixing the gross margin on a large proportion of their sales.

Moreover, it will confirm the inefficient merchant in his inefficiency; whereas the more efficient will be restrained from passing on to the consumer any of the benefits that may accrue from increase of business or lower costs of operation.

Evidence has already been quoted (see page 12) showing, as between retail druggists generally, wide variations in operating expenses. Reports of Canadian wholesale druggists furnished in the present inquiry, and already referred to, point in the same direction, and further confirmation, as respects the wholesale trade generally, is furnished by a report which has just been published showing an analysis of the confidential accounts of 150 typical American wholesale grocers for the year 1925[1]. The analysis is included in a report by J. Frank Grimes presented to the convention of the National Wholesale Grocers' Association of the United States at Rochester in June, 1926. The following table, based on the figures quoted in the report, suggests the unreasonableness, and the unfairness to the public, of any scheme which would compel a firm whose operating costs come to 5 per cent to advance its prices to a level sufficiently high to provide for a 16 per cent margin for a competitor. It is interesting to note that the 5 per cent firm showed a net profit of over 2 per cent; while the 16 per cent firm did business actually at a loss:—

—	Lowest	Highest
Gross Margin	5·70% of net sales	16·77% of net sales
Total operating expenses	5·01% "	16·37% "
Buying expenses	0·17% "	1·63% "
Selling expenses	1·05% "	5·57% "
Storing expenses	0·16% "	1·87% "
Handling and shipping	0·27% "	2·54% "
Delivery	0·25% "	3·42% "
General and administrative	1·32% "	5·39% "
Turn-over expense	0·18% "	1·90% "
Turn-over	2·4 times per year	13·8 times per year

[1] *New York Journal of Commerce,* August 28, 1926.

The report points out further that, whereas the most efficient of the 150 wholesale houses employed only $10\frac{1}{4}$ persons per one million dollar sales, the most inefficient employed 55 persons.

Conclusion.

Reviewing briefly some of the main considerations presented in this report, it is evident, in the first place, that the wholesale and many independent retail dealers in the drug business, as in every other branch of trade, have suffered seriously in recent years by reason of radical and far-reaching changes in the distributive system. Mass-merchandising methods have been following in the wake of mass-production, and one of the effects has been to rob the wholesaler of much of his former usefulness; another has been to confront the small retailer with severe competition in the form of price-cutting to levels on which many of them cannot profitably do business. The problems which have given rise to the P. A. T. A. are those, therefore, of the wholesale and retail distributors. The Association is not the outcome of a desire on the part of the manufacturers to have their articles price-protected. As a matter of fact, the individual manufacturer already has other means of controlling the resale price of his products. Even under the greater restrictions of the United States law, he may suggest prices to his distributors and withhold supplies from those who fail to observe them.

From the viewpoint of the trade, the P. A. T. A. is an attempt, promoted by wholesale and retail distributors, to re-establish the wholesaler as the channel between manufacturer and retailer, or at least to enable him to hold his own in the trade, and at the same time to protect the smaller retailer from the price-cutting methods of his new and larger competitors. In so far as such price-cutting does not result from savings in operating expenses, but represents selling below cost for mere advertising purposes, it would seem to be unfair to the manufacturer as well as to competitors. If all price-cutting were of this type, and if this were the only type of price-cutting to be restrained by the P. A. T. A., there would be less occasion for public concern. But the remedy applied by the P. A. T. A. has the effect, unfortunately, of preventing not only predatory price-cutting but any reductions in price, regardless of the substantial variations which have been shown to exist in the operating costs and rates of stock-turn of different stores and different types of stores. Granted that some retailers have been suffering from their competitors cutting prices below cost, the public is much more seriously affected by a remedy which will establish prices in all stores at an irreducible minimum. Moreover, it is by coercion that price-cutting is to be prevented. Manufacturers are practically forced to join the P. A. T. A. if they are to find a market for their proprietary articles, and wholesalers and retailers who sell any one article below the P. A. T. A. price will be refused supplies of all the articles protected by the association. Arguments, therefore, which can be reasonably advanced in support of individual manufacturers maintaining their own prices are beside the mark when applied to the plan of the P. A. T. A. The P. A. T. A. has been organized in answer to a real and vexatious problem in drug merchandising, but it goes far beyond the cause for legitimate complaint.

Furthermore, the P. A. T. A. tends to maintain the present over-supply of distributive agencies, and to restrict trade to the traditional channels of distribution, whatever less expensive methods may be in existence now or may in the future be devised. Despite the admittedly excessive costs of modern distribution, it penalizes all experiment in merchandising looking to a reduction of costs of operation and prices to the consumer. In the ordinary course of business such changes follow the experiments of individuals, not the joint decisions of groups; they are possible only where freedom of trading exists. To come collectively to a decision to reduce prices by reducing margins or costs is within the

range of possibility, but not of likelihood. From the point of view, therefore, of the evolution of new and improved methods of merchandising, collective action resulting in the fixing, for the entire drug trade, of *any* irreducible minimum price, even though it be based on the operating costs of the most efficient, must be regarded as against the public interest.

Much has been made in this country of the success which has attended the P. A. T. A. in Great Britain, the apparent lack of opposition to it, and the circumstance that its operations have not been declared illegal. Without entering into any discussion of the subject, the observation may be made that the co-operative societies of Great Britain, representing a membership of nearly five millions, and with an annual turnover of about £200,000,000, are opposed to it as preventing the savings which have proved possible in other lines not so protected. As far as its legality is concerned, it is clear that price-maintenance has been fully established at law in Great Britain. The fact that it was fully established in practice before being tested in law may have something to do with this. But it should be remembered that in Great Britain there is no statutory law on restraint of trade such as we have in the Combines Investigation Act and in section 498 of the Criminal Code. Draft legislation somewhat similar to our own has been introduced during the life of the present British Parliament, designed particularly to provide means for investigating such price-fixing organizations as the P. A. T. A. in England, but thus far all the cases dealt with in the courts have been decided at common law.

The operation of the P. A. T. A. in Canada may be to the temporary benefit of the wholesale trade and of a large proportion of the retail druggists; to the manufacturers who are members of the Association the advantages, if any, will be slight; to the non-concurring manufacturer the consequences may be disastrous. This inquiry, however, has been undertaken on behalf of the *general public* (regarding the public not as separate from the drug trade, but as inclusive of its interests; and having in mind that whatever is to the real and permanent advantage of any branch of trade will ultimately be in the public interest). The result of the inquiry has been to disclose a *tripartite agreement* representing virtually a whole trade, initiated largely by one party, for the benefit of two, enforced by all three; but, unfortunately, to the disadvantage of a fourth party, namely, the public. The public interest in such matters, however, is safeguarded by legislation which cannot be said to be unduly repressive of business; the Combines Investigation Act simply declares that if any such agreement or combination operates or is likely to operate to the detriment of the public, it should be restrained. It is submitted that the evidence presented in this report is sufficient to show that the Proprietary Articles Trade Association has operated *and* is likely to operate to the detriment of or against the interest of the public, and that therefore it is a "combine" within the meaning of the Combines Investigation Act.

I have the honour to be, sir,

Your obedient servant,

F. A. McGREGOR,

Registrar, Combines Investigation Act.

APPENDIX A

DEFINITION OF A "COMBINE" AS CONTAINED IN SECTION 2 (A) OF THE COMBINES INVESTIGATION ACT

The expression " combine " in this Act shall be deemed to have reference to such combines immediately hereinafter defined as have operated or are likely to operate to the detriment of or against the interest of the public, whether consumers, producers or others; and, limited as aforesaid, the expression as used in this Act shall be deemed to include

(1) mergers, trusts and monopolies so called, and

(2) the relation resulting from the purchase, lease, or other acquisition by any person of any control over or interest in the whole or part of the business of any other person, and

(3) any actual or tacit contract, agreement, arrangement or combination which has or is designed to have the effect of

(i) limiting facilities for transporting, producing, manufacturing, supplying, storing or dealing; or

(ii) preventing, limiting or lessening manufacture or production; or

(iii) fixing a common price or a resale price, or a common rental, or a common cost of storing or transportation; or

(iv) enhancing the price, rental or cost of article, rental storage or transportation; or

(v) preventing or lessening competition in, or substantially controlling within any particular areas or district or generally, production, manufacture, purchase, barter, sale, storage, transportation, insurance or supply; or

(vi) otherwise restraining or injuring trade or commerce.

APPENDIX B

LIST OF MANUFACTURERS WHO ARE MEMBERS OF P. A. T. A.

Abbey Effervescent Salt Company, The	Montreal
Allen & Hanburys Company, Limited, The	Toronto
Angier Chemical Company	Boston
Ansco Photoproducts, Inc	West Toronto
Armand, Limited	St. Thomas
Ayerst, McKenna & Harrison, Limited	Montreal
Bauer & Black, Limited	Toronto
Bayer Company, Limited	Windsor
Beecham, Thomas (J. H. Howard, Agent)	Montreal
Bengue, Dr. Jules	Montreal
Bliss Medical Company, The Alonzo O	Montreal
Blosser Company, The	Toronto
Bristol-Myers Company	New York
Buckley, Limited, W. K	Toronto
Canada Representatives, Limited (Seven Sutherland Sisters)	Toronto
Canada Representatives, Limited (Newskin)	Toronto
Canada Rex Spray Company, Limited	Brighton
Canadian Boncilla Laboratories, Limited	Toronto
Carter Medicine Company	New York
Centaur Company, The	Montreal
Chamberlain Medicine Company, Limited	Toronto
Chase Medicine Company, Limited, The Dr. A. W	Toronto
Coleman & Company (Canada), Limited	Toronto
Colgate & Company, Limited	Montreal
Common Sense Manufacturing Company	Toronto
Creomulsion Company, Limited	Atlanta
Dagget & Ramsdell	New York
Davis & Lawrence Company	Montreal
D.D.D. Company of Canada, Limited	Toronto
Denver Chemical Manufacturing Company, The	Montreal
Deshell Laboratories, Limited	Toronto

Dodd's Medicine Company, Limited, The.................. Toronto
Druggists' Corporation of Canada, Limited.................. Toronto
Elliman Sons & Company, Limited.......................... Slough
Emerson Drug Company.................................. Toronto
Fellow's Medical Manufacturing Company, Inc............. New York
Fleming Brothers, Limited................................. Toronto
Forhan's, Limited .... Montreal
Foster-Dack Company, Limited .... Toronto
Franco-American Chemical Company, Limited (Standard Products Company, Moro Medical Company)............... Montreal
Frosst & Company, Charles E.............................. Montreal
Frostilla Company, The .... Toronto
Fruitatives, Limited .... Ottawa
Galt Chemical Products, Limited.......................... Galt
Gilmour Brothers (Horlick's Malted Milk).................. Montreal
Health Products Corporation .... Toronto
Herb Juice Medicine Company of Canada, Limited........... Windsor
Herdt & Charton, Inc..................................... Montreal
Herpicide Company, Inc., The............................. Windsor
Hopkins & Son, Ferd. T................................... Montreal
Horner, Frank W., Ltd.................................... Montreal
Houbigant, Limited .... Montreal
Howard Brothers' Chemical Company........................ Bridgeburg
Humphrey's Homeopathic Medicine Company.................. New York
Inecto Rapid (Canada), Limited, The...................... Toronto
Ingram Company, F. F..................................... Detroit
International Druggists' & Chemists' Laboratories, Inc....... Binghampton, N.Y.
Jergens Company, Limited, The Andrew..................... Perth
Johnson & Johnson, Limited............................... Montreal
Johnson-Richardson, Limited .... Montreal
Kendall Company, Dr. B. J................................ Enosburg Falls, **Vt.**
Kennedy Manufacturing Company............................ Montreal
Klotz, H. & G. (successors to Parfumerie Ed. Pinaud)....... Toronto
Knickerbocker Remedy Company............................. New Haven
Kolynos Company, The..................................... New Haven
Kress & Owen Company..................................... New York
Laboratoire de Phar. Gen., Dr. Ph. Chapelle (successors to Rigaud & Chapoteaut) .... Paris
Laboratoire Nadeau, Limitee.............................. Montreal
Lambert, Limitee, Dr. J. O............................... Montreal
Leonhardt Company, Dr.................................... Buffalo
Lewis Medicine Company, The A. H......................... Windsor
Lyman's Limited (Tintex Dyes)............................ Montreal
Macnamara Limited (Atkinson's Perfumery)................. Montreal
Marlatt & Company, Limited, J. W......................... Toronto
Marvel Company, The .... West Haven
Mathieu, La Cie J. L..................................... Sherbrooke
McCoy's Laboratories, Inc................................ New York
McEwen, Cameron, Limited................................. Montreal
Mead, Johnson & Company of Canada, Limited............... Belleville
Mellin's Food Company of North America................... Boston
Menley & James, Limited.................................. Montreal
Mennen Company, Limited, The............................. Montreal
Mentholatum Company .... Bridgeburg
Milburn Company, Limited, The T.......................... Toronto
Miles Medical Company, Dr................................ Toronto
Monroe Drug Company...................................... Quincy, Ill.
Mothersill Remedy Company................................ Montreal
Murine Eye Remedy Company................................ Chicago
Musterole Company, The .... Cleveland
National Drug & Chemical Company of Canada, Limited...... Toronto
North American Dye Corporation, Limited.................. Toronto
Northam Warren Corporation .... Montreal
Northrop & Lyman Company, Limited........................ Toronto
Notox, Limited .... Toronto
Odorono Company, Limited................................. Toronto
Othine Laboratories, Inc., The........................... Buffalo

Ouimet, J. Alfred	Montreal
Packer Manufacturing Company, Inc., The	Montreal
Palmer's, Limited	Montreal
Parfumerie, L. T. Piver	Montreal
Parfumerie Roger & Gallet	Montreal
Paris Medicine Company	Toronto
Parke Davis & Company	Walkerville
Partussin, Limited	Montreal
Phillips' Chemical Company, C. H.	Montreal
Pineoleum Company, The	New York
Pinex Company, The	Toronto
Polson & Company, Limited, N. C.	Montreal
Pompeian Manufacturing Company, The	Cleveland
Prichard & Constance	New York
Princess Pat Products, Limited	New York
Pro-Phy-Lac-Tic Brush Company of Canada, Limited	Montreal
Pulford Drug Company, Limited, The	Toronto
Ransom Son & Company, D.	Buffalo
Rheuma Company, The	Buffalo
Richards' Glass Company, Limited, The	Toronto
Ritchie & Company, Limited, Harold F. (Whitex Corporation)	Toronto
Rougier Freres	Montreal
Scholl Manufacturing Company, Limited	Toronto
Scott & Bowne	Bloomfield
Seabury & Johnson	New York
Seely Manufacturing Company, Limited	Windsor
Smith, Kline & French Company	Montreal
Smith & Nephew, Limited	Montreal
Squibb & Sons of Canada, Limited, E. R.	Toronto
Stearns Company of Canada, Limited, F.	Windsor
Steedman & Company, John	London, England
Sterling Products, Limited	Windsor
Stott & Jury	Bowmanville
Swaisland, C. E.	Kitchener
Tanlac Company, Limited	Dayton, Ohio
Templeton's, Limited	Toronto
Tetlow Company, Henry	Philadelphia
Triner Company, Joseph	Chicago
Tru-Lax Manufacturing Company	Newark
Van Ess Laboratories, Inc.	Chicago.
Vapo-Cresolene Company	New York
Vick Chemical Company	Greensboro, N.C.
Vinolia Company, Limited	Toronto
Wampole & Company, Limited, Henry K.	Perth
Wander, Limited, A.	Toronto
Warner & Company, Limited, Wm. R.	Toronto
Waterbury Chemical Company of Canada, Limited	Toronto
Watson & Company, D.	Montreal
Wells & Company, S. C.	Toronto
Wells & Richardson Company, Limited	Windsor
Wesley & Company, Edward	Walkerville
White, Limited, A. J.	Montreal
Whitlow & Company, Limited, Fred J.	Toronto
Williams Company (Canada), Limited, J. B.	Montreal
Wingate Chemical Company, Limited	Montreal
Wollacker, Limitee, Etablissements, M. A.	Montreal
Woodward, Limited, W.	Toronto
World's Dispensary Medical Association	Buffalo
Wyeth Chemical Company, Limited	Walkerville
Yardley & Company (Canada), Limited	Toronto
Young, Inc., W. F.	Springfield
Zonite Products Company	Toronto

APPENDIX C

LIST OF WHOLESALERS WHO ARE MEMBERS OF THE P. A. T. A.

Canadian Drug Company, Limited	St. John, N.B.
Casgrain & Charbonneau, Limited	Montreal
Drugs, Limited	Winnipeg
Drug Trading Company, Limited	Toronto
Estey & Curtis	Fredericton, N.B.
Johnson & Boon Company, Limited	Fort William, Ont.
Leduc & Leduc, Limitée	Montreal
The Lyman Brothers and Company, Limited	Toronto
Lyman's, Limited	Montreal
McEwen-Cameron, Limited	Montreal
National Drug & Chemical Co. of Canada, Ltd	Calgary
National Drug & Chemical Co. of Canada, Ltd	Edmonton
National Drug & Chemical Co. of Canada, Ltd	Halifax
National Drug & Chemical Co. of Canada, Ltd	Hamilton
National Drug & Chemical Co. of Canada, Ltd	London
National Drug & Chemical Co. of Canada, Ltd	Montreal
National Drug & Chemical Co. of Canada, Ltd	Ottawa
National Drug & Chemical Co. of Canada, Ltd	Regina
National Drug & Chemical Co. of Canada, Ltd	Saskatoon
National Drug & Chemical Co. of Canada, Ltd	St. John, N.B.
National Drug & Chemical Co. of Canada, Ltd	Toronto
National Drug & Chemical Co. of Canada, Ltd	Vancouver
National Drug & Chemical Co. of Canada, Ltd	Winnipeg
Northrop & Lyman Company, Limited	Toronto
Ottawa Drug Company, Limited	Ottawa
N. C. Polson & Company, Limited	Montreal
Revillon Wholesale, Limited	Edmonton
J. A. Tepoorten, Limited	Vancouver

APPENDIX D

CONSTITUTION AND RULES OF THE PROPRIETARY ARTICLES TRADE ASSOCIATION

1. The Association shall be called the Proprietary Articles Trade Association.

2. The objects of the Association shall be

(a) The discussion of matters of common interest to the branches of the trades represented, with a view to decision, and, if necessary, co-operation.

(b) The taking of such steps as the Association may be advised are legal and not detrimental to the interests of the public, whether consumers, producers or others, to deal with unreasonable and unfair cutting of prices, and to give advice and render assistance to its members in preventing substitution.

(c) The doing of such other things as are lawful and as may appear to be of benefit to the trade and not detrimental to the public interests.

3. The Association shall consist of manufacturers and wholesale and retail vendors of proprietary articles who give evidence of their being in sympathy with the objects of the Association.

4. The affairs of the Association shall be under the entire management and control of a Council consisting of the following:

(a) All members of the manufacturers' section.

(b) All members of the wholesale section.

(c) One retail representative from each of the following provinces, namely, British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia and Prince Edward Island; two representatives from Quebec and three from Ontario. These may elect additional members to their section up to three in number.

5. That the election of members of each section of the Council shall take place annually.

6. No resolution of the Council shall be deemed to be carried and no rule or regulation of the Association become operative unless it has first received the approval of the majority of each section.

7. The three sections of the Council shall constitute three committees to whom matters particularly affecting their branches of the trade shall be referred but any decision arrived at by such committees to be subject to the ratification of the Council.

8. The meetings of the Council shall be held at such times and places as the Council may direct but at least one meeting of the Council shall be held in each year.

9. In order to facilitate the handling of the business of the Association, the Council may delegate its authority to an Executive Committee consisting of the President, Chairman of the Council, Treasurer, three Vice-Presidents, one to be nominated by each section of the Association, namely, manufacturers, wholesalers and retailers, and of three members of each section of the Council, such members to be elected by their respective sections.

10. The Council is authorized to make rules and regulations for its own government and the government of the Executive Committee and likewise that of the Association, and to annul or alter the same from time to time as occasion may require.

11. The Council shall be empowered to elect the officers of the Association, and to decide what shall constitute the various duties, privileges and emoluments in connection with such offices. The officers shall retire from office each year, and shall be eligible for re-election.

12. The following shall be the annual subscriptions to the Association: *Owners of proprietary articles* $100 for the first article listed, and $3 for each additional article. *Wholesale vendors* $200 per year for each store operated by them. *Retail vendors* $5 per year for each store operated by them. Each member to be entitled to one vote for each subscription paid, but no member shall be entitled to vote or hold office unless the subscription is paid. The subscriptions run for 12 months from date of payment.

APPENDIX E

RESOLUTIONS PASSED AT ORGANIZATION MEETING OF THE PROPRIETARY ARTICLES TRADE ASSOCIATION HELD AT WINDSOR HOTEL, MONTREAL, MARCH 15, 1926

1. That the following officers be elected:—

President: Leo G. Ryan (Wingate Chemical Co., Ltd., Montreal).
Chairman of Council: Sir William S. Glyn-Jones.
Treasurer: Arthur Lyman (Lymans Limited, Montreal).
Vice-Presidents:

Manufacturers' Section:

W. J. Fraser (Northrop, Lyman & Co., Ltd., Toronto).

Wholesalers' Section:

C. W. Tinling (National Drug & Chemical Co. of Canada, Ltd., Montreal).

Retailers' Section:

(G. A. Lapointe (Montreal).

Executive Committee:

The above officers and the following:—

Manufacturers' Section:

F. A. Blair (The Centaur Company).
W. G. M. Shepherd (Colgate & Co., Ltd., Montreal).
W. M. Grant (Parke Davis & Co., Walkerville).

Wholesalers' Section:

W. A. Hargreaves (Drug Trading Co., Ltd., Toronto).
J. A. M. Charbonneau (Casgrain & Charbonneau Ltd., Montreal).
W. G. Noble (Lyman Bros. & Co., Ltd., Toronto).

Retailers' Section:

C. G. Whebby, Toronto.
E. Vadboncœur, Montreal.
E. A. Rea, Woodstock.

2. That the Proprietary Articles Trade Association be informed that this Organization Meeting expresses to them their sincere appreciation of the courtesy shown by them, in relinquishing the above title so that it may be taken by this organization.

MINIMUM PRICES

3. To recommend to manufacturers that where articles have been so severely cut that a sudden advance from the cut price to the advertised price would be inexpedient, the minimum retail price should be something lower than the advertised price.

MAIL ORDER CATALOGUE PRICES

4. That the listing of P.A.T.A. articles appearing in the current lists of well-known Mail Order Houses be postponed to a date (August) to coincide with the issues of the catalogues of such Mail Order Houses in which the prices shall have been adjusted to correspond with P.A.T.A. prices.

SUBSTITUTION

5. That as the object of the Association is to secure for manufacturers unfettered distribution to the public through trade channels, the Council pledges itself to discourage unfair practices on the part of any trader in connection with such articles as are on the Association's List and to take such similar steps as they are advised are legal to prevent supplies reaching any trader who attempts, when a P.A.T.A. article is asked for, to induce the customer to take a substitute, as they do in the case of the trader who sells below the P.A.T.A. prices.

IMPORTED PROPRIETARIES

6. Where a manufacturer abroad has established a branch or appointed an agent in Canada for the purpose of handling an article specially put up for the Canadian market, which article has been placed on the Association's Protected List, the Association shall take such steps as their lawyer may advise are legal in giving to the manufacturer and his agent assistance in preventing that manufacturer's article from being sold unless in the package specially adopted for the Canadian market.

CO-OPERATION IN THE EVENT OF LEGAL PROCEEDINGS

7. In the event of any question arising as to the legality of the Association or its operations and of legal proceedings being taken against any member of the Association on account of his membership of the Association, or of any act essential to the carrying out of any rule or resolution of the Association which he may have committed, (the rules or resolutions being such as the Association's lawyer has advised are legal) the Association shall take charge of the case and assume costs up to the limit of the Association's funds. Furthermore in the event of the Association not possessing sufficient funds for the purpose of defending any such case as is referred to in the foregoing resolution, the Council shall make a levy upon every member of the Association.

CO-OPERATION WITH GROCERY TRADE

On a report by Mr. Crowder that a conference of manufacturers, wholesalers and retailers in the Grocery Trade, covering the Dominion, held in Toronto on March 9, a resolution was passed that they were ready to support the P.A.T.A. Movement, and asking that this Organization might reciprocate their sentiments as far as their Organization was concerned, it was

8. Resolved that the Grocers' Conference be thanked for their resolution and informed that this Organization would be glad at all times to co-operate with them in appropriate and legal methods of dealing with the mischief of extreme cutting.

APPENDIX F

"MODERN CHANGES IN METHODS OF MARKETING"

Extract from "Public Regulation of Competitive Practices," National Industrial Conference Board, New York, 1925, pp. 13-18

THE TRADITIONAL, OR REGULAR, CHANNELS OF TRADE

A half century ago what is now known as the "regular" or "traditional" channel of trade was common in most branches of industry. It consisted, summarily, of the manufacturer, the broker, or selling agent, the jobber or wholesaler, the retailer, the con-

sumer. Finished goods passed from the manufacturer in relatively large quantities, equivalent often to a season's entire output, to be gradually split up and distributed in successive stages in ever-dwindling volume (of individual transactions) until they reached the hands of ultimate consumers. The commanding figure, the pivotal position, in this whole series of distributive operations was that of the jobber. He it was, typically, who interpreted the demand. The quantity, quality, and style of products were determined by him and the goods were commonly made up at his risk. Not unusually they were labelled with his trade mark, and in any case it was his responsibility to keep on hand a sufficient supply to meet promptly the market demand, however widely that might fluctuate. Seldom were sales made, beyond the wholesale stage, of goods not "ready for delivery." Sales were ordinarily accomplished by inspection, rather than by specification or even by sample. Prices all along the line were independently negotiated in each transaction. Some exceptions to this generalization, so far as applicable to retail trade, might have been necesssary. But even in that sphere the exceptions had not become the rule fifty years ago. The relative infrequency and consequent relative scale of individual transactions tended to make price negotiation a constant and inescapable feature of business management.

DISLOCATION OF THE ESTABLISHED SYSTEM OF TRADE ORGANIZATION

All this has been materially changed in most branches of trade during recent decades. The "regular channels of trade" have been disturbed and disfigured until only their outlines are still traceable here and there. The "merchant prince" of former days has been displaced by the "captain of industry," and the latter in turn is now challenged. The jobber no longer dominates the entire productive and distributive process. In many fields he seems to be disappearing altogether. His function of "interpreting the demand" has been transferred and transformed by the insistent urge of the manufacturer to "create a demand." The "regular retailer" has likewise suffered, and under the influence of much the same forces. His function of anticipating customers' wants and of representing them in the selection of unstandardized merchandise has been largely superseded. The consumer does not require the services of a specialist in judging the quality of goods which may be ordered by name, with their grade or formula plainly stamped upon them. Whether rightly or wrongly, the manufacturer's widely advertised representations regarding the composition of his identified product and claims for its quality are now accepted by buyers where the verbal assurances of dealers were formerly relied upon. Retail distributors in many lines, consequently, have been driven to seek patronage almost exclusively upon the basis of the price appeal. But for this purpose the rapid turn-over of a stock relatively small in relation to the variety of goods handled is an indispensable condition. Those types of retail agencies which have been organized and conducted in recognition of this underlying necessity have latterly prospered and seem most likely to survive. The phenomenal growth of chain stores, department stores and mail order houses in recent years evidences the strength of these forces.

Into the causes of these far-reaching transformations it is unnecessary here to make an extensive inquiry. But to forestall possible misunderstanding of the relation of this commercial revolution to the standards of competitive business practice, it may be appropriate to indicate briefly the major forces underlying this development. Improvement in the means of communication and transportation furnishes the key to the modern commercial revolution. The ease and advantage of rapid communication by telephone, telegraph and mail, and economy of sales-solicitation through the columns of advertising media having wide distribution, have not entirely eliminated personal salesmanship, but they have undoubtedly been working in that direction. Likewise the promptness of delivery by railroad and motor-truck and the dispatch in manufacture itself to which these with other devices contribute have not eliminated the storage of finished goods, but they have greatly reduced the requirements of warehousing. The ratio of the average stocks of finished goods held in process of market distribution to the total turn-over of goods for any given period tends in nearly every line of trade to decline. There is less and less reason for distributors to assume the risks of style and price changes, involved in accumulating reserves of merchandise, not to mention the burden of sheer "carrying charges," such as interest, insurance, and depreciation, upon these stocks.

SIGNIFICANCE OF RECENT CHANGES IN COMMERCIAL ORGANIZATION

It is only latterly coming to be appreciated that these changes signify more than a modification in the administrative policies of established mercantile distributors. They signify radical rearrangements in the whole trade structure. They account fundamentally for the gradual decline, or eclipse, of jobbing. They account for the confusion and anxiety among regular retailers. They account for the expansion of chain stores and for the growth of mail order houses and department stores. Above all, they account for the extension of the manufacturer's activities marketwards and the corresponding multiplication of his problems.